

DOCKET NO. LLI CV-15-6013124S	:	SUPERIOR COURT
RICHARD BLITZ, TRUSTEE OF THE RICHARD BLITZ DEFINED BENEFIT PENSION PLAN AND TRUST	:	J.D. OF LITCHFIELD
VS.	:	AT LITCHFIELD
GLEN LOVEJOY AND KATHLEEN RIISKA-LOVEJOY	:	MARCH 21, 2016

MOTION FOR ORDER

Defendants, Glen Lovejoy and Kathleen Riiska-Lovejoy, respectfully move the Court for an Order requiring that any of their son, Owen Saunders Lovejoy's, healthcare providers who are a covered entity under the Health Insurance Portability and Accountability Act ("HIPAA"), disclose to the defendants, or their attorney Gasser Law Firm, LLC, all of the medical records identified in any subpoena issued by the defendants' attorneys in connection with this litigation. Defendants further request that the Order acknowledge that Defendants through Gasser Law Firm, LLC, are expressly authorized to request any records in any such covered entity's possession or control: (i) for mental health records dating from August 20, 1996 through March 18, 2014; and (ii) for any other medical records dating from January 1, 2010 through

March 18, 2014. Defendants further request that the Court's Order remain in effect until the end of trial or the date when this litigation is otherwise resolved. In support of this Motion, the undersigned represents as follows:

I. FACTS:

By way of background, Plaintiff alleges that the defendants' son, Owen Saunders Lovejoy, burned down a dwelling on real property owned by the plaintiff and that the defendants failed to supervise their son. Therefore Plaintiff claims damages.

Plaintiff's claims raise issues about the decedent's mental health. Prior to the date of the subject incident, the decedent treated with a number of healthcare providers, including specialists in mental health, pediatrics/primary care, and hospitals from multiple states. On the date of the subject incident, Owen was seventeen years old. However, he subsequently reached the age of majority before he died and no estate was opened which would allow the defendants to obtain an authorization from a fiduciary.

II. LAW AND ARGUMENT:

Pursuant to the federal privacy regulations promulgated under HIPAA, a health care provider "may not use or disclose protected health information

without an authorization” 45 C.F.R. § 164.508(a)(1). An exception to the general rule is provided in § 164.512(e). This regulation provides that medical records may be disclosed in a judicial proceeding if “[i]n response to an order of a court . . . provided that the covered entity discloses only the protected health information expressly authorized by such order;” 45 C.F.R. § 164.512(e)(1)(i).

An Order from the Court allowing their attorneys to obtain records from any of the decedent’s healthcare providers through a subpoena, during the remainder of this action is necessary in order to comply with HIPAA’s privacy regulations. Granting this order will best preserve the decedent’s privacy while fostering judicial economy given the numerousness of the decedent’s providers.

III. CONCLUSION:

Wherefore, Defendants respectfully request the Court grant this Motion and that any of Owen Saunders Lovejoy’s healthcare providers who are a covered entity under the Health Insurance Portability and Accountability Act (“HIPAA”), disclose to the defendants, or their attorney Gasser Law Firm, LLC, all of the medical records identified in any subpoena issued by the defendants’ attorneys in connection with this litigation. Defendants further request that

the Order acknowledge that Defendants through Gasser Law Firm, LLC, are expressly authorized to request any records in any such covered entity's possession or control: (i) for mental health records dating from August 20, 1996 through March 18, 2014; and (ii) for any other medical records dating from January 1, 2010 through March 18, 2014. Defendants further request that the Court's Order remain in effect until the end of trial or the date when this litigation is otherwise resolved.

**THE DEFENDANTS,
GLEN LOVEJOY AND
KATHLEEN RIISKA-LOVEJOY**

By: _____

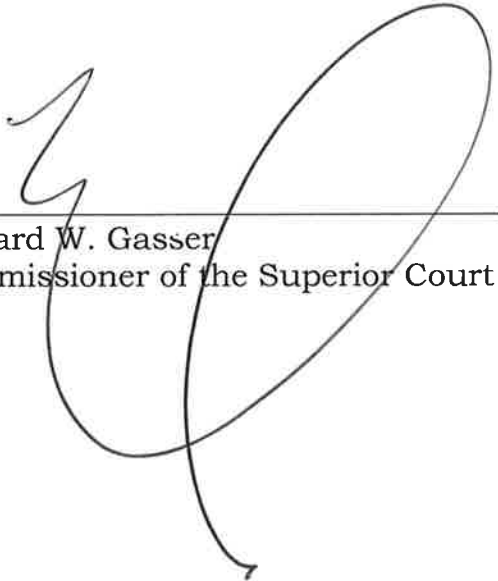

**Edward W. Gasser, Esq.
Gasser Law Firm, LLC
20 East Main Street
Avon, CT 06001-3823
Juris No. 421213
Telephone: 860-674-8342
Facsimile: 860-676-8912
egasser@gasserlaw.com**

CERTIFICATION

I hereby certify that a copy of the foregoing has been sent this date via electronic delivery to the following counsel of record accepting electronic delivery:

Zisca St. Clair, Esq.
Rome McGuigan PC
1 State Street
Hartford, CT 06103
zstclair@rms-law.com

Thomas G. Benneche, Esq.
885 Hopmeadow Street
Simsbury, CT 06070
tom@benneche.com



Edward W. Gasser
Commissioner of the Superior Court